



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
MARGARET M. O'NEILL BUILDING
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DOVER, DE 19901

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November 20, 2009

Mr. Charlie Michels, Executive Director
Professional Standards Board
Townsend Building
401 Federal Street
Dover, DE 19901

RE: 13 DE Reg. 647 [DOE Final Advance License for Educators Regulation]

Dear Mr. Michels:

The State Council for Persons with Disabilities (SCPD) has reviewed the Professional Standards Board's [in collaboration with the Department of Education (DOE)] final "Issuance and Renewal of Advanced License" regulation published as 13 DE Reg. 647 in the November 1, 2009 issue of the Register of Regulations. SCPD commented on the proposed version of this regulation in September 2009. SCPD has the following observations and recommendations.

As background, the Delaware Code (Title 14 Del.C. 1216) authorizes the DOE to issue a 1 year license extension to an educator whose license is expiring based on "exigent circumstances". The DOE proposed to delete current provisions which defined "exigent circumstances" as including justification based on serious illness, military service, or other serious emergencies:

~~"Exigent Circumstances" means unanticipated circumstances beyond the educator's control, including, but not limited to serious illness of the educator or a member of his/her immediate family, activation to active military duty, and other serious emergencies which necessitate the educator's temporarily leaving active service.~~ The expiration of an educator's license before the end of the school year shall be considered an exigent circumstance; however, the educator's license may only be extended to the end of the current school year.

SCPD recommended retention of the above sentence earmarked for deletion. See attached September 29, 2009 letter.

The DOE has now adopted a final regulation with no changes. The rationale for rejecting the Council's recommendation is uninformative:

Comments were received from both the Governor's Advisory Council for Exceptional Citizens and the State Council for Persons with Disabilities. It was determined that the proposed change was not necessary.

13 DE Reg. at 648.

The response raises two (2) concerns.

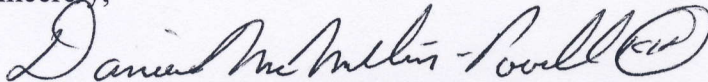
First, the APA requires the DOE to include a "brief summary of the evidence and information submitted" and "a brief summary of its findings of fact with respect to the evidence and information." In this case, the DOE failed to summarize the Council's commentary and failed to provide a meaningful rationale for rejection.

Second, the DOE's new definition of "exigent circumstances" does not appear to fairly implement Title 14 Del.C. 1216 and essentially rejects military service and serious illness as qualifying as "an exigent circumstance."

SCPD respectfully requests clarification of the rationale not to accept Council's previous recommendation.

Thank you for your consideration.

Sincerely,



Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

cc: The Honorable Lillian Lowery
Dr. Teri Quinn Gray
Ms. Martha Toomey
Ms. Paula Fontello, Esq.
Ms. Mary Cooke, Esq.
Mr. John Hindman, Esq.
Ms. Susan Haberstroh
House Education Committee
Senate Education Committee
Delaware State Education Association
Developmental Disabilities Council
Governor's Advisory Council for Exceptional Citizens

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September 29, 2009

Mr. Charlie Michels, Executive Director
Professional Standards Board
Townsend Building
401 Federal Street
Dover, DE 19901

RE: 13 DE Reg. 359 [DOE Proposed Advance License for Educators Regulation]

Dear Mr. Michels:

The State Council for Persons with Disabilities (SCPD) has reviewed the Professional Standards Board's [in collaboration with the Department of Education (DOE)] proposal to amend its "Issuance and Renewal of Advanced License" regulation. The proposed regulation was published as 13 DE Reg. 359 in the September 1, 2009 issue of the Register of Regulations. SCPD has the following observations and recommendations.

First, the proposed regulation limits the application of the standards to educators licensed and certified under Chapter 12 of Title 14 with the exception of substitute teachers.

Second, it changes the location, but not the wording, of its definition of "immorality".

Third, the proposed regulation amends the definition of "exigent circumstances" which can form the basis of an extension of a license for up to one year pursuant to Section 6.0. The amendment is as follows:

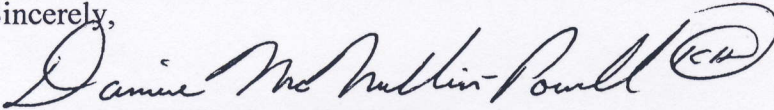
~~"Exigent Circumstances" means unanticipated circumstances or circumstances beyond the educator's control, including, but not limited to serious illness of the educator or a member of his/her immediate family, activation to active military duty, and other serious emergencies which necessitate the educator's temporarily leaving active service. The expiration of an educator's license before the end of the school year shall be considered an exigent circumstance, however, the educator's license may only be extended to the end of the current school year.~~

SCPD recommends retention of the proposed deleted sentence. The Delaware Code does not restrict "exigent circumstances" to expiration prior to the end of the school year. See

Title 14 Del.C. §1216(a). Rather, the Code authorizes an extension for "exigent circumstances" for a period not to exceed 1 year. This 1-year authorization also appears in §6.0 of the existing regulation. It would be preferable to maintain the existing sentence which clarifies that the scope of "exigent circumstances" is broader than simply expiration of a license and encompasses serious illness, military deployment, etc.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations or recommendation on the proposed regulation.

Sincerely,

A handwritten signature in black ink, reading "Daniese McMullin-Powell" with a stylized circular flourish at the end.

Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

cc: The Honorable Lillian Lowery
Ms. Jean Allen
Ms. Martha Toomey
Ms. Paula Fontello, Esq.
Ms. Mary Cooke, Esq.
Ms. Jennifer Kline, Esq.
Ms. Susan Haberstroh
Developmental Disabilities Council
Governor's Advisory Council for Exceptional Citizens